

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

JAMES WILLIAM LANGDEAUX,

Petitioner,

vs.

MARK LUND,

Respondent.

No. C12-4081-MWB

ORDER

The matter before the court is the petitioner's application for a writ of habeas corpus. The clerk's office filed such application on September 4, 2012. Along with his application for a writ of habeas corpus, the petitioner submitted an application for appointment of counsel.

The petitioner did not pay the filing fee or submit an application to proceed in forma pauperis. *See* 28 U.S.C. § 1914(a) (requiring \$350.00 filing fee for civil actions, except that on application for a writ of habeas corpus the filing fee is \$5.00); 28 U.S.C. § 1915 (explaining in forma pauperis proceedings). The petitioner's application for appointment of counsel, which does not include a certificate of inmate account, does not allow the court to determine if the petitioner is entitled to the advantages of proceeding in forma pauperis. Therefore, the petitioner is directed to either submit an application to proceed in forma pauperis that complies with 28 U.S.C. § 1915 or submit the required \$5.00 filing fee by no later than September 21, 2012. If he has sufficient funds in his inmate account, the petitioner must pay the \$5.00 filing fee. If the petitioner does not comply with this order, this action may be dismissed. *See* Fed. R. Civ. P. 41(b) (permitting dismissal where a plaintiff either fails to prosecute or fails to respond to an order of the court); *Hutchins v. A.G. Edwards & Sons*, 116 F.3d 1256, 1259-60 (8th Cir. 1997) (explaining court's power

to dismiss an action); *Edgington v. Missouri Dept. of Corrections*, 52 F.3d 777, 779-80 (8th Cir. 1995) (same), abrogated on other grounds by *Doe v. Cassel*, 403 F.3d 986, 989 (8th Cir. 2005).

IT IS SO ORDERED.

DATED this 6th day of September, 2012.



LEONARD T. STRAND
MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT